

Remarks

Claims 1, 3-6, 10, 13, 17, 18, 20, 26 and 27 are pending, and remain rejected. By this response, Applicant cancels claims 17, 18, 20, 26 and 27, without prejudice or disclaimer, as they were withdrawn from consideration by the Examiner as being drawn to non-elected inventions.

Applicant notes that the sole remaining rejection is of claims 1, 3-6, 10 and 13, under 35 U.S.C. § 102(a) over Srinivasan et al. (*in* Peptides for the New Millennium, pp. 689-690, 1999). The Office has previously stated that “author R. Wardrop, who is not a co-inventor of the instantly claimed subject matter, was in possession of the claimed peptide analog prior to the filing date of the instant application” and for that reason, “the invention was known or used by others in this country.” Applicant has been “invited by the Office to provide evidence that Mr. Wardrop was not in possession of the claimed invention prior to the filing date of the instant application, or, alternatively, that Mr. Wardrop was under instructions not to disclose the sequence of the claimed peptide analog to others prior to the filing date of the instant application.” (Office Action of 2/14/2006, page 4). Applicant has already submitted a Declaration under 37 C.F.R. § 1.131 by Dr. Pravin Kaumaya, filed on 5/11/2006, however the Office did not find it persuasive.

Applicant provides herewith a declaration under 37 C.F.R. § 1.132, signed by Dr. Caroline C. Whitacre, one of the named inventors of the present application, in order to provide evidence that Dr. Richard Waldrop was under instructions not to disclose the sequence of the claimed peptide analog to others prior to the filing date of the instant application as requested by the Office. The declaration asserts that Dr. Wardrop worked in the laboratory of Dr. Whitacre under her supervision, is not an inventor of the retro inverso peptide analog claimed in the instant

application, and that Dr. Wardrop was bound by a confidentiality policy, as well as, instructed not to discuss particulars concerning the retro inverso peptide analog prior to filing the instant application. The Office has previously pointed out that M.P.E.P. 715.04 requires that all inventors must sign 37 C.F.R. § 1.131 declarations. However, Applicant respectfully points out that there is no such requirement in the M.P.E.P. for a declaration under 37 C.F.R. § 1.132. Accordingly, Applicant submits that this declaration is sufficient to overcome the rejection of the instant claims.

In view of the foregoing remarks, Applicant respectfully requests timely allowance of the pending claims.

If there is any fee due in connection with the filing of this Response, please charge the fee to our Deposit Account No. 03-0172.

Respectfully submitted,

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